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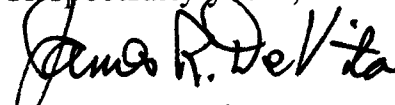
**By ECF**

United States Court of Appeals  
for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, New York 10007

Re: In re: McCray, Richardson, Santana  
Docket No. 15-1887-cv

I am writing to respond to the letter from Appellant's counsel, Gareth W. Stewart, Esq., filed with the Court yesterday, November 23, 2015, requesting that "this appeal be assigned for disposition" because Appellee did not file its brief on November 17, 2015 as originally scheduled. Apparently, Mr. Stewart is unfamiliar with Rule 31.2 (a)(3) of this Court's Local Rules, which provides as follows: "The filing of a dispositive motion . . . tolls the time periods set forth in this rule until the motion is determined or the appeal is reinstated." Appellee filed a motion to dismiss this appeal on October 22, 2015, thus tolling the time for the filing of Appellant's brief. In an excess of caution, I respectfully request that, in the event this Court denies Appellee's motion to dismiss, I be allowed thirty days from the date of the order denying the motion to file Appellee's brief.

Respectfully yours,

  
James R. DeVita

cc: Gareth W. Stewart  
(via ECF and email)